

REMARKS

Claims 67, 118, 121, 122 and 124-126 were previously pending in this application. Claims 118, 121, 122, 125 and 126 have been canceled. Claim 67 has been amended to recite that the claimed nucleic acid molecule consists of a fragment of SEQ ID NO:681 that is at least 24 consecutive nucleotides of SEQ ID NO:681 or a full-length complement thereof.

Support for the amendment can be found at least on page 20, lines 4-5 of the specification as filed. Applicant notes that the claimed fragments have utility as noted in the specification, for example, as follows. At page 20, lines 20-30, Applicant described the utility of fragments as probes in Southern and Northern blot assays, as primers for nucleic acid amplification, e.g., PCR, to produce fragments of cancer antigens (which are described in the specification as useful to induce an immune response, and in immunoassays), and as antisense molecules to inhibit expression. At page 87, line 32 – page 88, line 1, Applicant described the utility of fragments to identify the region of a gene that encodes a peptide that induces an immune response. At page 14, lines 7-9, Applicant described fragments as encoding a portion of a polypeptide that binds an MHC molecule. Accordingly, the claimed fragments are supported in the specification as having specific, credible and well-known utility.

No new matter has been added.

Objection to the Specification

The Examiner objected to the specification for improper incorporation by reference. Applicant fails to see the relevance of the objection, since Applicant is not presently relying on the statement of incorporation by reference, nor did Applicant rely on incorporation by reference in the previous amendment. Both the MPEP section and Ex parte Raible cited by the Examiner indicate that the incorporation must be specific when it is relied upon to support a specific claim limitation as required by 35 U.S.C. 112. Applicant is not placing relying on the incorporation by

reference statement in such a way. As such, Applicant cannot understand why there is an objection raised against the specification.

Nevertheless, in order to facilitate allowance of the application, Applicant has removed the allegedly improper statement. Reconsideration of the objection is respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph

The Examiner rejected claim 118 under 35 U.S.C. §112, first paragraph, as lacking an adequate written description. Applicant has canceled claim 118 and respectfully requests withdrawal of the rejection of the claims made under 35 U.S.C. § 112, first paragraph.

Rejection Under 35 U.S.C. § 102

The Examiner has rejected claim 67 under 35 U.S.C. § 102(b) as anticipated by the nucleic acid molecule of STN Registry Number 135992-22-2. Applicant has amended claim 67 and respectfully requests reconsideration.

Applicant has amended claim 67 to limit the claim to nucleic acid molecules consisting of fragments of SEQ ID NO:681. The nucleic acid molecule of STN Registry Number 135992-22-2 does not provide a polynucleotide that anticipates the nucleic acid molecule now claimed.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections made under 35 U.S.C. § 102.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By: 
John R. Van Amsterdam, Reg. No. 40,212
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617) 646-8233

Docket No. L0461.70078US00
Date: November 23, 2005
X11/25/05